

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE LAND USE ORDINANCE – TITLE 22 OF THE  
COUNTY CODE, RELATING TO CANNABIS ACTIVITIES

WHEREAS, on September 20, 2016, the San Luis Obispo County Board of Supervisors (“Board of Supervisors”) adopted a 45-day interim zoning/urgency ordinance, Ordinance No. 3334 (“Urgency Ordinance”), pursuant to Government Code Sections 25123, 25131 and 65858; and

WHEREAS, the Urgency Ordinance temporarily prohibited the cultivation of cannabis in the unincorporated portions of San Luis Obispo County, except for certain exceptions, including existing nonconforming cultivation; and

WHEREAS, under the Urgency Ordinance, among other criteria, any person asserting an existing nonconforming cannabis cultivation site within the unincorporated areas of the County was required to register with the County Department of Planning and Building and demonstrate that the registrant had begun cultivation at the location address on or before August 23, 2016; and

WHEREAS, one hundred and forty-one registrations for cooperative or collective medicinal cannabis cultivations were ultimately approved by the County Department of Planning and Building Department (“Planning Department”) under the Urgency Ordinance; and

WHEREAS, on November 27, 2017, the Board of Supervisors adopted a cannabis ordinance, Ordinance No. 3358 (“Inland Ordinance”), which set forth comprehensive regulations upon cannabis activities in the unincorporated inland areas of San Luis Obispo County, including land use permit requirements upon non-exempt cannabis cultivations; and

WHEREAS the Inland Ordinance became effective on December 31, 2017 and the Urgency Ordinance was repealed and replaced as to unincorporated inland areas of San Luis Obispo County upon the Inland Ordinance becoming effective; and

WHEREAS, on June 19, 2018 during a quarterly cannabis update, the Board of Supervisors originally directed staff to prepare amendments to the cannabis ordinance in two phases, phase one to include items that would not necessarily require consultation with other agencies or extensive public outreach and thus could be prepared more expeditiously, and phase two amendments which would require consultation with other agencies or extensive public outreach; and

WHEREAS, on December 11, 2018, the Board of Supervisors adopted phase one amendments to the Inland Ordinance No. 3377; and

WHEREAS, the amendments to the Inland Ordinance became effective on January 10, 2019; and

WHEREAS, on March 26, 2019, during a quarterly cannabis update, the Board of Supervisors directed staff to include additional amendments as a part of phase two including, but not limited to: expanding cannabis manufacturing on agricultural lands, exploring the calculation of cannabis canopy, and including additional justifications to modify the screening and fencing requirements to include considerations of viewshed and neighborhood compatibility; and

WHEREAS, on March 26, 2019, at that same cannabis update, the Board of Supervisors directed staff to include additional amendments to the cannabis ordinance as a part of a new phase three including, but not limited to: enhanced enforcement violations, increased distance buffers from sensitive sites or uses, revisions to water offset requirements, disallowing re-permitting if an operation ceases or code violations occur, requiring fully enclosed ventilation systems, and revising standards for ancillary nursery to be encompassed in overall cannabis cultivation area; and

WHEREAS, on June 4, 2019, the Board of Supervisors adopted phase two amendments to the Inland No. 3390; and

WHEREAS, pursuant to Article XI, section 7 of the California Constitution, the County of San Luis Obispo (“County”) may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

WHEREAS, it is in the best interest of the County of San Luis Obispo for all cannabis that is cultivated, processed, manufactured, distributed, tested, and/or sold in the County of San Luis Obispo to be part of a well-regulated, environmentally responsible, and economically sustainable legal cannabis marketplace; and

WHEREAS, it is in the best interest of the health, safety, and welfare of the citizens of San Luis Obispo County that amendments be made to existing land use regulations governing cannabis activities that are applicable to both the medicinal and adult use legal marketplace; and

WHEREAS, the enactment of this ordinance will not cause there to be an increase in the number of cultivation sites eligible to do business in the unincorporated area of the County of San Luis Obispo; and

WHEREAS, it is the purpose and intent of this ordinance to implement State law by providing a means for regulating cannabis related activities in a manner that is consistent with State law and regulations, and which balances the needs of medical patients and their caregivers and promotes the health, safety, and welfare of the residents and businesses within the unincorporated territory of San Luis Obispo County; and

WHEREAS, the intent and purpose of this ordinance is to establish and refine reasonable regulations upon the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of cannabis or a cannabis product, in order to protect the environment, water supply, public health, safety, and welfare in San Luis Obispo County; and

WHEREAS, nothing in this ordinance shall be construed to allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal under State or

federal law, and no provision of the Chapter created by this ordinance shall be deemed a defense or immunity to any action brought against any person by the San Luis Obispo County District Attorney, the Attorney General of the State of California, or the United States of America; and

WHEREAS, these amendments are exempt from the California Environmental Quality Act (Public Resources Code §21000, et seq.) (“CEQA”) pursuant to Section 26055(h) of the California Business and Professions Code, to the extent any amendments are not automatically exempt from CEQA pursuant to Section 26055(h) of the California Business and Professions Code, those amendments would be exempt from CEQA because:

1. Per CEQA Guidelines §15061(b)(3) – The ordinance is not subject to CEQA due to the general rule that an action is not subject to CEQA where it can be seen with certainty that there is no possibility that there will be a significant effect on the environment.
2. Per CEQA Guidelines §15307 (Class 7) – The ordinance consists of regulations and restrictions on cannabis activities and promotes maintenance, restoration of enhancement of natural resources.
3. Per CEQA Guidelines §15308 (Class 8) – The ordinance consists of regulations and restrictions on cannabis activities to assure the maintenance, restoration, or enhancement of the environment; and

WHEREAS, on June 25, 2020, the Planning Commission of the County of San Luis Obispo after noticed public hearings did recommend amendments to the San Luis Obispo County Land Use Ordinance – Title 22 of the County Code and the Coastal Zone Land Use Ordinance – Title 23 of the County Code or otherwise took action recommending said amendments; and

WHEREAS, on June 25, 2020 the Planning Commission of the County of San Luis Obispo made the following findings and they are incorporated herein:

- A. The proposed amendments are consistent with the Land Use Element and other adopted elements of the County General Plan. The proposed amendments consist of continued refinements to existing regulations established for cannabis activities within the unincorporated areas of the County.
- B. The proposed amendments are consistent with the guidelines for amendments to the Land Use Ordinance and Coastal Zone Land Use Ordinance because the amendments are designed to increase compatibility between cannabis activities and present and potential adjacent land uses.
- C. The proposed amendments will protect the public health, safety and welfare of the area residents by making refinements to existing regulations for cannabis activities in San Luis Obispo County.

NOW THEREFORE, The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1. Chapter 22.40 of the San Luis Obispo County Code is hereby amended to read as follows:

## **Chapter 22.40 – Cannabis Activities**

### **Sections:**

22.40.010 – Purpose  
22.40.020 – Applicability  
22.40.030 – Exemptions from Land Use Permit Requirements  
22.40.040 – Requirements for All Cannabis Activities  
22.40.050 – Cannabis Cultivation  
22.40.060 – Cannabis Nurseries  
22.40.065 – Cannabis Processing Facilities  
22.40.070 – Cannabis Manufacturing  
22.40.080 – Cannabis Testing Facilities  
22.40.090 – Cannabis Dispensaries  
22.40.100 – Cannabis Distribution  
22.40.105 – Cannabis Transport Facilities  
22.40.110 – Grounds for Revocation  
22.40.120 – Procedure for Revocation  
22.40.130 – Enforcement

### **22.40.010 – Purpose of Chapter**

The purpose of this Chapter is to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls in compliance with State law and federal enforcement guidelines, protect neighborhood character, and minimize potential for negative impacts on people, communities, and the environment in the unincorporated areas of San Luis Obispo County by establishing minimum land use requirements for cannabis activities. Cannabis activity, as defined in Chapter 22.80 of Title 22, includes the cultivation, possession, manufacturing, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of cannabis or a cannabis product. Therefore, this Chapter recognizes that cannabis activities require land use controls due to the unique federal and State legal constraints on cannabis activity, and the potential environmental and social impacts associated with cannabis activity. These standards cannot be waived or modified through Conditional Use Permit approval, except as specifically noted.

### **22.40.020 – Applicability**

California Business and Professions Code Section 26067 specifies: “For the purposes of this division [Division 10], cannabis is an agricultural product.” However, the identification of cannabis as an agricultural product does not extend to other areas of the law. For example, cannabis is not an agricultural commodity with respect to local “right to farm” ordinances. Additionally, cannabis cultivation has never been considered “crop production and grazing” (a land use type) as that term is defined in the San Luis Obispo County General Plan or Titles 22 and 23, and is therefore not exempt from land use permitting requirements.

Except as provided in Section 22.40.030 of this Chapter, cannabis activities shall not be allowed in the unincorporated areas of San Luis Obispo County without first securing all permits, licenses, or other entitlements required by County ordinance and State law and regulation.

For the purposes of this Chapter, cannabis does not include “industrial hemp” as that term is defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code, as they may be amended. For regulations pertaining to the cultivation of industrial hemp see Section 22.30.244. For regulations pertaining to industrial hemp processing refer to Section 22.30.070. Persons claiming plants do not fall under this Chapter bear the burden of presenting evidence demonstrating the plants are industrial hemp, and not cannabis, including but not limited to providing THC testing, germplasm, cultivar, strain and/or clone information, as well as evidence the operation is in compliance with state law. Any violation of state law related to industrial hemp shall be considered a violation of this Chapter and subject to the enforcement procedures and provisions set forth under Sections 1.05.080, 22.40.130, and 22.74.150.

For the purposes of this Chapter, “site” means any lot or parcel of land or contiguous combination thereof, under the same ownership.

#### **22.40.030 - Exemptions from Land Use Permit Requirements**

The provisions of this Section are applicable in all land use categories. In all cases, activities that are exempt under this Section shall be accessory to a legally established and permitted residential use. Any development utilized for activities that are exempt under this Section shall be legally established and permitted, and shall meet all other requirements of the County Code and all State regulations and provisions as they may be amended for personal and commercial cannabis activities. Any exempt cannabis activity carried on under this Section shall comply with all other applicable provisions of this Title and the following standards:

- A.** All exempt activities shall be conducted indoors in a legally established structure.
- B.** All exempt grows shall comply with the following minimum standards in Section 22.40.050:
  - 1. Odor control requirements pursuant to Subsection D.8
  - 2. Pesticide management requirements pursuant to Subsection D.9
- C. Cannabis cultivation for personal use.** Possession or storage of cannabis, or cultivation of cannabis for personal use, where indoor cultivation does not exceed one hundred (100) square feet of total canopy area of cannabis and does not exceed six (6) plants, including both mature (flowering) and immature plants per dwelling unit, is exempt from the land use permit requirements contained in this Chapter. Cultivation of cannabis by an individual shall be located indoors in a legally established dwelling or accessory structure that is fully enclosed and secured. Outdoor cultivation is not permitted under this exemption, and is thereby subject to the permit requirements of Sections 22.40.040 and 22.40.050.

Under this exemption, the individual that, possesses, stores, or cultivates cannabis shall do so exclusively for his or her personal use, and shall not provide, donate, sell, or distribute cannabis to any other person, except as otherwise allowed by State law. Use of this exemption is limited to one per dwelling unit.

- D. Cannabis cultivation by a primary caregiver.** Possession or storage of medical cannabis, or cultivation of up to one hundred (100) square feet of total canopy area of medical cannabis by a primary caregiver within the meaning of Section 11362.7 of the California Health and Safety Code, on behalf of qualified patients, with not more than six (6) plants total, including both mature (flowering) and immature plants, per site, is exempt from the land use permit requirements contained in this Chapter, provided the primary caregiver does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the California Health and Safety Code. Cultivation of medical cannabis by a primary caregiver shall be located indoors in a legally established dwelling or accessory structure that is fully enclosed and secured; outdoor cultivation is not permitted under this exemption, and is thereby subject to the permit requirements of Sections 22.40.040 and 22.40.050. Primary caregivers shall provide appropriate documentation to enforcement personnel demonstrating that they are the primary caregiver for a qualified patient.

Primary caregivers, while exempt from the requirements contained in this Chapter, are required to obtain Business License authorization pursuant to Title 6 of the County Code to remain in compliance with this Section.

#### **22.40.040 - Requirements for All Cannabis Activities**

The application for a land use permit and for amendments thereto, shall be processed in accordance with Chapter 22.60. Notwithstanding the foregoing, and in addition to all other remedies available under this Title, the procedures for revocation of a land use permit granted under this Chapter shall be as set forth in Sections 22.40.110 and 22.40.120 of this Chapter. The following requirements apply to all cannabis activities not otherwise exempted by this Chapter.

**A. Application requirements.**

1. Site plan, floor plans, and a general description of the nature, square-footage, and type of cannabis activity(ies) being requested shall be submitted with the land use permit application.
2. An application for a project that includes indoor cultivation, indoor ancillary nursery or indoor commercial nursery shall include the following:
  - a. A detailed inventory of energy demand prepared by a Certified Energy Analyst. The inventory shall include an estimate of total energy demand from all sources associated with all proposed cannabis cultivation

activities including, but not limited to, lighting, odor management, processing, manufacturing and climate control equipment. The quantification of demand associated with electricity shall be expressed in total kilowatt hours (kWh) per year; demand associated with natural gas shall be converted to kWh per year.

- b. Specific steps to be taken to minimize energy demand and greenhouse gas emissions associated with the project. Such steps may include, but are not limited to:
  - c. Source project energy demands from renewable energy sources;
  - d. Evidence documenting the permanent retrofit or elimination of equipment, buildings, facilities, processes, or other energy saving strategies to provide a net reduction in electricity demand and/or GHG emissions.
  - e. Construction of a qualified renewable energy source such as wind, solar photovoltaics, biomass, etc., as part of the project.
  - f. Purchase of greenhouse gas offset credits from recognized and reputable voluntary carbon registries.
  - g. Installation of battery storage to offset nighttime energy use.
  - h. Any combination of the above or other qualifying strategies or programs that would achieve a reduction or offset of project energy demand and GHG emissions.
3. Evidence documenting that the site has legal access to a public road.
4. Evidence the applicant has submitted a business license application to the County Tax Collector and obtained background check approval from the Sheriff's Office.
5. All cannabis activities shall include an operations plan including at a minimum, the following information:
- a. On-site security measures consistent with guidance issued by the Sheriff's Office, both physical and operational and, if applicable, security measures for the delivery of cannabis associated with the commercial cannabis business;
  - b. Odor management plan;
  - c. Size, height, colors, and design of any proposed signage at the site;
  - d. Parking plan consistent with Chapter 22.18;

- e. Proof of ownership or lease agreement with landowner's consent;
- f. Employee safety and training plan;
- g. Hours of operations, including any shifts;
- h. Number of anticipated employees at full build out, and if applicable, include the number of employees per shift;
- i. Estimated number of cannabis and non-cannabis deliveries to and from the site;
- j. A statement on neighborhood compatibility and a plan for addressing potential compatibility issues;
- k. Waste management plan consistent with Sections 22.10.150. B and C.; and
- l. Vicinity map showing at least one-thousand five-hundred (1,0500) feet of surrounding area and the distances to the following uses: any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the nearest point of the property line of the site that contains the cultivation to the nearest point of the property line of the enumerated use using a direct straight-line measurement.

**B. Vertical integration.** Any land use permit proposing more than one cannabis activity on one site shall be subject to Conditional Use Permit approval. This requirement does not apply to activities which qualify as ancillary to another cannabis activity in accordance with this Chapter.

**C. Previous violations.** Any site proposing cannabis activities where there have been verified violations of a County ordinance or other laws relating to cannabis within the last twenty-four (24) months shall require a Conditional Use Permit approval. Any site proposing cannabis activities which has had three (3) or more verified violations of County ordinance or other laws relating to cannabis within the last twenty-four (24) months shall be ineligible to apply for land use permit approval for any cannabis activity for a period of five (5) years from the date of the last verified violation.

**D. Security.** Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products shall be provided and maintained in accordance with guidance issued by the Sheriff's Office. Security measures shall include, but are not limited to, the following:

- 1. Prevent individuals from loitering on the premises if they are not engaging in activity expressly related to the operations of the facility;



2. Store all cannabis in a secured and locked structure or behind a secured and locked fence, and all cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss.
- E. Site posting.** The owner shall post on site all required land use permit approvals and all required County and State permits and licenses required to operate. Such posting shall be in a central location, visible to the patrons, at the operating site, and in all vehicles that deliver or transport cannabis.
- F. Records.** The owner and all permittees of all cannabis activities requiring land use permit approval shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. The County shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County upon request.
- G. Compliance.** The owner and all permittees of all cannabis activities requiring land use permit approval shall conduct cannabis activities in compliance with all required County permits, State licenses, County ordinance, and State law and regulation. The owner shall be responsible for the payment of all required fees and taxes. **The owner shall comply with all business license requirements and tax collector guidelines and requirements.**
- H. Inspection.** All ~~land use permits and permitted sites with~~ cannabis activities ~~iesy sites, including proposed or permitted,~~ are subject to review and inspection from law enforcement or any agents of the State or County charged with enforcement of this Chapter.
- I. Operation.** No person shall operate a commercial cannabis business under a commercial cannabis land use permit issued pursuant to this Chapter at any place or location, or in any manner other than that identified on the permit.
- J. State license required.** One or more of the State cannabis license types set forth in California Business and Professions Code and all other applicable regulatory permits shall be obtained and maintained in good status by the permittee in order for a land use permit issued under this Section to remain valid.
- ~~A valid license from the State issued pursuant to California Business and Professions Code Section 26000 et seq. shall be required in order for a land use permit issued pursuant to this Chapter to be considered valid. In the event that the State is not yet issuing licenses and/or a State license has not yet been issued, but only during calendar year 2018, proof of application for a State licenses may be deemed sufficient for the County to issue a local land use permit. Within six (6) months of application at the State, a license must be presented to the County, or all commercial cannabis permits and licenses will be revoked for the applicant. If a State license is denied, the County shall revoke the land use permit and/or Business License.~~
- K. Pesticides.** Approved cannabis cultivation operations employing the use of pesticides shall

also obtain the appropriate pesticide use permitting from the Department of Agriculture / Weights and Measures. In addition, all pesticides used on cannabis plants shall comply with the California Department of Food and Agriculture regulations.

- L. Water quality.** Cannabis cultivation shall operate pursuant to a permit from the Central Coast Regional Water Quality Control Board (CCRWQCB). Until the permitting process is in place, all cannabis cultivators shall adhere to the environmental measures outlined by CCRWQCB.
- M. Location.** All cannabis activities are prohibited on sites that are surrounded by federal land or on property where the only access to a site is through federal land.
- N. Solid waste and recycling.** Cannabis activities (regardless of the site's location) shall provide solid waste and recycling collection consistent with Sections 22.10.~~050~~150.B and C.
- O. Monitoring program.** All land use permits for cannabis activities shall require the applicant's participation in a County-run monitoring program. The monitoring program shall be funded by applicants and will be used to conduct site visits and inspections of all commercial cannabis sites to verify compliance with this chapter and conditions of approval for the land use permits. The applicable program fees shall be collected yearly by the Department of Planning and Building at the time of Business License issuance and on a monthly or quarterly basis thereafter as assessed by the Department of Planning and Building renewal. Sites with inspection reports that indicate failure to comply with the standards of this Chapter are subject to permit revocation pursuant to Section 22.40.120 and/or Business License non-renewal.
- P. Public notice.**

  - 1. Prior to application submittal.** The applicant shall submit evidence that the neighboring property owners and the applicable advisory group were notified of the request prior to the submission of the land use permit to the county. This notice shall be provided by the applicant sending a letter using the form provided by the Department of Planning and Building. The letter shall be mailed or delivered at least 10 days prior to application submittal to the applicable advisory group and to all owners of real property as shown on the latest equalized assessment roll within 1,000 feet of the subject site.
  - 2. Public hearing notice.** Public notice shall be provided to owners of property within a minimum of 1,000 feet of the exterior boundaries of the proposed site and to all property owners fronting any local roads that serve the facility back to an arterial or collector, instead of in the manner normally required for public hearings by Section 22.70.060. Public notice may be required to be provided to properties greater than 1,000 feet away for certain applications at the discretion of the Director of Planning and Building.
- Q. Use of a Residence.** Except for those activities considered exempt pursuant to Section 22.40.030, no structure or portion thereof used for residential purposes, including vacation

rentals, shall be used for Cannabis Activities.

- R. Application of Ordinance Amendments.** Except as otherwise provided in this Chapter, land use permit applications for cannabis activities will be subject to ordinance requirements in effect on the date of final review and approval or disapproval of the land use permit application. Except as otherwise provided in this Chapter, applications for renewal or modification of approved land use permit applications for cannabis activities will be subject to ordinance requirements in effect on the date of final review and approval or disapproval of the land use permit renewal or modification application. Except as otherwise provided in this Chapter, cannabis activities whose land use permit approval has expired pursuant to this Chapter do not qualify as a legal nonconforming use of land under Section 22.72.020.A. or legal nonconforming building, structure or site development under Section 22.72.020.B.

## **22.40.050 - Cannabis Cultivation**

- A. Limitation on use.** Except as provided in Section 22.40.030, cannabis cultivation may only be permitted in the Agriculture (AG), Rural Lands (RL), Residential Rural (RR), and Industrial (IND) land use categories with a land use permit in each case and as may further be restricted by this Title.
- 1. Limit on cultivation type allowed.** Outdoor cannabis cultivation shall be prohibited in the Industrial (IND) and Residential Rural (RR) land use categories.
  - 2. Limit on the number of cannabis cultivation sites.** The maximum number of cannabis cultivation sites in the unincorporated portions of the County shall be limited to 141, and as follows:
    - a. Indoor cultivation.** Any site, as defined by this Chapter, in the AG, IND, RL, or RR land use category may receive land use permit approval for indoor cannabis cultivation with a maximum of 22,000 square feet of cannabis canopy and shall occur entirely within the designated and approved cannabis cultivation area(s).
    - b. Outdoor cultivation.** Any site, as defined by this Chapter, in the AG or RL land use category may receive land use permit approval for outdoor cannabis cultivation, including any cannabis cultivation within a cannabis hoop structure, which shall occur entirely within the designated and approved cannabis cultivation area(s), as follows:

Within the Agriculture (AG) land use category on sites between 10 and 25 acres in area, the maximum area of outdoor cannabis canopy is two (2) acres.

Within the Agriculture (AG) land use category on sites greater than 25 acres in area, the maximum area of outdoor cannabis canopy is three (3) acres.

Sites within the Rural Lands (RL) land use category shall be limited to a maximum area of outdoor cannabis canopy of one acre.

**3. Ancillary activities.** Cannabis cultivation operations may include the following ancillary activities:

- a. Cannabis nursery.** A separate area for cannabis nursery for on-site use may be established, provided the nursery ~~canopy area (inclusive of walkways)~~ does not exceed 25% of the ~~approved area approved for~~ cannabis cultivation area. The immature plants, seeds or clones shall not be sold or transported off site. Any area solely allocated for use as an ancillary cannabis nursery shall be subject to the location and setback standards set forth under Section 22.40.060.E.1 and 3.
- b. Cannabis processing.** Cannabis grown on site may be processed in an on-site, non-residential structure. This does not include cannabis manufacturing, which would otherwise require Conditional Use Permit approval when done in conjunction with cannabis cultivation. Drying is allowed within a greenhouse, provided it occurs within (and does not exceed 25% of) the approved cultivation area for indoor cannabis cultivation. The drying of cannabis is not allowed within unpermitted structures, such as cannabis hoop structures. Except for structures used for cultivation, which are subject to standards set forth in Section 22.40.050.D, any structures used for processing shall be subject to the location and setback standards set forth under Section 22.40.065.D.1.a and D.3.
- c. Cannabis transport.** Cannabis grown or processed on site may be transported to certain license types, as specified by State law. Only cannabis grown on site or cannabis products manufactured with cannabis grown on site shall be transported under this provision. The transport operation shall be conducted from a non-residential structure.

**B. Land use permit required.** A Minor Use Permit is required for all cannabis cultivation, unless a Conditional Use Permit is required by another Section of this Title.

~~**1. Limit on land use permit applications.** Prior to January 1, 2019, applications for land use permits for cannabis cultivation operations shall be limited to operators previously registered with the County under Ordinance No. 3334, as a cooperative or collective. This limitation does not preclude an applicant from applying for a land use permit on a site other than the site identified on a previous registry, provided a consent of landowner form is submitted with the application.~~

- 1. Land use permit expiration.** All land use permits issued for cannabis cultivation shall expire in five years from the approval date. Within a twelve (12) month period prior to expiration, the applicant may request the land use permit be renewed for an additional five-year period. Any request for renewal shall be in writing to the Department prior to the expiration date of the land use permit, and shall be

submitted in conjunction with the appropriate land use permit application. The request for renewal shall be processed with the same level of permit for the original entitlement. If a request for renewal is not granted prior to land use permit expiration, the land use permit shall be deemed expired effective five years from the date of the previous approval and all non-permit exempt cannabis cultivation shall cease on the site until land use permit approval is obtained. Notwithstanding the foregoing, at the Director of Planning and Building's discretion, the expiration date may be administratively extended up to six (6) months to allow additional processing of a timely submitted and complete renewal application. Any cannabis cultivation occurring on a site after land use permit expiration without land use permit approval shall be subject to the enforcement procedures and provisions set forth in Sections 1.05.080, 22.40.130 and 22.74.150.

**2. Relocation of a permitted cannabis cultivation operation.** When a site owner and cultivation permittee elect to vacate a cannabis cultivation operation that is operating pursuant to an approved land use permit and relocate the operation to a new site, a new application, discretionary land use permit, and CEQA compliance action shall be required, but such applicants shall not be subject to otherwise-required permit allocation procedures and limitations, as specified in subsection B.1. All such applicants shall comply with the following:

- a. Obtain all necessary permits for the new site, including but not limited to, a new land use permit pursuant to this Chapter.
- b. The applicant shall submit, with their land use permit application for the new site, written notification from the landowner of the current site that the landowner agrees to vacate the approved cannabis cultivation operation.
- c. On or before the effective date for the land use permit on the new site (15 days after its approval, or upon final action, if the approval is appealed), the cannabis operation on the previous site shall be vacated.
- d. The applicant is responsible for complying with the requirements of the State and the County Tax Collector as applicable to any State license or County-issued Business License for the new site.

**C. Application requirements.** In addition to any specific requirements in this Section, land use permit applications shall comply with the requirements of Chapter 22.60 and Section 22.40.040.

- 1.** Site plan including parcel location, size, and dimensions, identification of all existing and proposed structures onsite, existing and proposed utilities/utility connections, proposed access road improvements, proposed tree removal or trimming, and floor plans of existing or proposed structures in which cannabis cultivation activities and any supportive/ancillary business operations would occur.

2. A general description of the nature, square-footage, and type of cannabis activity(ies) being requested, including, but not limited to, number of harvests anticipated per year, total volume (in cubic yards) of proposed earthwork, number and species of trees to be removed or trimmed, and height and materials of proposed fencing. If outdoor cannabis cultivation is proposed, include clarification as to whether plants would occur in the ground or in above-ground planters and whether hoop structures are proposed.
3. A detailed water management plan including the proposed water supply, proposed conservation measures, and any water offset requirements.
4. A four – hour pump test performed on all wells to be used for cannabis cultivation within the last 12 months of application date.
- ~~5. For indoor cultivation, all power sources proposed to be used.~~
5. Information regarding stormwater control and wastewater discharge, including, but not limited to, total area of proposed impervious surfaces and identification of existing stormwater control features onsite.
- ~~6. Prior to January 1, 2019, the applicant shall submit proof that the applicant has previously registered with the County under Ordinance No. 3334, as a cooperative or collective.~~
6. A list of all pesticides, fertilizers, and any other hazardous materials that are expected to be used in the cultivation process.
7. A storage and hazard response plan for all pesticides, fertilizers, and any other hazardous materials kept on the cultivator's site.
8. A description of any proposed ancillary activities, pursuant to Section 22.40.050(A)(3). The site plan shall identify any proposed structures associated with ancillary activities.

**D. Cultivation standards.**

**1. Location.**

- a. For land use permit applications accepted for processing before September 18, 2020, and any subsequent renewals except as may be otherwise provided by future amendments of this Title, the following standards shall apply:
  - i. Cannabis cultivation shall not be located within one thousand (1,000) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the nearest point of the property line of the site that contains

the cannabis cultivation to the nearest point of the property line of the enumerated use using a direct straight-line measurement. A new adjacent use does not affect the continuation of an existing use that was permitted and legally established under the standards of this Section. This location standard may be modified through Minor Use Permit approval to reduce the distance to six hundred (600) feet. This location standard may be modified to reduce the distance below 600 feet from any library, park, playground, recreation center, licensed drug or alcohol recovery facility, or licensed sober living facility through Conditional Use Permit approval, provided the Commission first makes the findings specified in Section 22.40.050(E)(2).

- b. For land use permit applications accepted for processing on or after September 18, 2020, and any subsequent renewals except as may be otherwise provided by future amendments of this Title, the following standards shall apply:
  - i. Cannabis cultivation shall not be located within one thousand five hundred (1,500) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the nearest point of the property line of the site that contains the cannabis cultivation to the nearest point of the property line of the enumerated use using a direct straight-line measurement. A new adjacent use does not affect the continuation of an existing use that was permitted and legally established under the standards of this Section. This location standard may be modified through Minor Use Permit approval to reduce the distance to six hundred (600) feet. This location standard may be modified to reduce the distance below 600 feet from any library, park, playground, recreation center, licensed drug or alcohol recovery facility, or licensed sober living facility through Conditional Use Permit approval, provided the Commission first makes the findings specified in Section 22.40.050(E)(2).
  - ii. No cannabis cultivation site shall be located within one thousand five hundred (1,500) feet of another cannabis cultivation site or cannabis nursery. Distances shall be measured from the closest property line of the existing cannabis cultivation site, to the closest property line of the property containing the proposed cannabis cultivation site. This location standard can be modified through Minor Use Permit approval when a Conditional Use Permit is not otherwise required.
- c. No industrial hemp cultivation may occur on a cannabis cultivation site unless the review authority first finds that specifically identified characteristics of the site or site vicinity would make the prohibition of industrial hemp cultivation unnecessary and would not result in nuisance odors from being detected offsite. The existence of or potential for industrial hemp being cultivated on surrounding sites shall not be grounds for allowing industrial hemp cultivation on a cannabis cultivation site.



## 2. Minimum site area.

- a. **Outdoor cultivation.** Outdoor cannabis cultivation is limited to sites that meet the minimum site area by land use category listed below:

Agriculture (AG)	10 acres
Industrial (IND)	Not allowed
Residential Rural (RR)	Not allowed
Rural Lands (RL)	50 acres

- b. **Indoor cultivation.** Indoor cannabis cultivation is limited to sites that meet the minimum site area by land use category listed below:

Agriculture (AG)	10 acres
Industrial (IND)	No minimum
Residential Rural (RR)	20 acres
Rural Lands (RL)	50 acres

## 3. Setbacks.

- a. For land use permit applications accepted for processing before September 18, 2020, and any subsequent renewals except as may be otherwise provided by future amendments of this Title, the following standards shall apply:

- i. Indoor cannabis cultivation shall be within a fully enclosed building that has been setback as set forth in Section 22.30.310.
- ii. Outdoor cannabis cultivation shall be setback a minimum of 300 feet from the property lines of the site or public right-of-way, whichever is closer.
- iii. Indoor cannabis cultivation shall be setback 100 feet from any existing offsite residence, swimming pool, patio, or other living area of separate ownership. A new adjacent use does not affect the continuation of an existing use that was legally established under the standards of this Section.
- iv. All cannabis cultivation shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, and 100 feet from any wetland, and from all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation.
- v. Setbacks may be modified through Minor Use Permit approval, except for setbacks required by the California Building Code, or for the resource setbacks identified in subsection iv above.

- b. For land use permit applications accepted for processing on or after September 18,



2020, and any subsequent renewals except as may be otherwise provided by future amendments of this Title, the following standards shall apply:

- i. Indoor cannabis cultivation shall be within a fully enclosed building that has been setback as set forth in Section 22.30.310.
- ii. Outdoor cannabis cultivation shall be setback a minimum of 300 feet from the property lines of the site or public right-of-way, whichever is closer, and one thousand five hundred (1,500) feet from any existing offsite residence under separate ownership.
- iii. Indoor cannabis cultivation shall be setback 100 feet from any existing offsite residence, swimming pool, patio, or other living area of separate ownership. A new adjacent use does not affect the continuation of an existing use that was legally established under the standards of this Section.
- iv. All cannabis cultivation shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, and 100 feet from any wetland, and from all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation.
- v. Setbacks may be modified through Minor Use Permit approval, except for setbacks required by the California Building Code, or for the resource setbacks identified in subsection d above.

**4. Air quality.** Cannabis cultivation sites located on an unpaved public or private road as defined in Title 20 shall provide, at a minimum, the following, in order to mitigate the air pollution (i.e. dust) effects created by the use prior to the establishment of the use.

- a. A mitigation plan for continuing dust control from the property frontage to the nearest County-maintained road. The plan may be modified to adjust for changed conditions or to improve the effectiveness of the dust reducing technology. The plan and all modifications to the plan are subject to review and approval by the Review Authority.
- b. Evidence of road maintenance provided by the County, State, special district, homeowners association or other organized maintenance, such as a road maintenance agreement.
- c. An agreement, to support and not protest: the formation of an assessment district or; the creation of another funding mechanism. The consenting person(s) retains all due process rights as to any term or condition that was unknown at the time of application approval. The consenting person(s) may contest the specific proportionality rate or other term or condition of the assessment or funding mechanism.

## 5. Water.

- a. Cannabis cultivation sites that require a land use permit and are in a groundwater basin at Level of Severity III ~~pursuant to the last Biennial Resource Management System report~~ shall provide an estimate of water demand prepared by a licensed ~~professional engineer~~ Professional Geologist, Certified Engineering Geologist, or Certified Hydrogeologist or other expert on water demand, as approved by the Director of Planning and Building, and a detailed description of how the new water demand will be offset. All water demand within a groundwater basin at Level of Severity III shall offset at a minimum 1:1 ratio. All water demand within an identified Area of Severe Decline shall offset at a minimum 2:1 ratio, ~~unless a greater offset is required through land use permit approval~~. Offset clearance shall be obtained, ~~prior to establishment of the use or receipt of Business License Clearance pursuant to 22.62.020~~, through an approved project specific or a County approved water conservation program for the respective groundwater basin, ~~prior to the establishment of the use or receipt of Business License Clearance pursuant to Section 22.62.020~~. that has been subject to environmental review, expressly provides water offsets for cannabis activities, and results in a verifiable reduction of water demand equal to, or exceeding, the required water demand offset for the life of the project. For clarification and not limitation, Planning Area Standards under Article 9 of the land use ordinance which apply water offset requirements on development for non-agricultural purposes, including but not limited to Section 22.94.025, do not apply to or supersede the offset requirements under this subsection for cannabis cultivation, nursery or processing uses.
- b. Irrigation water supplies for cannabis cultivation shall not include water transported by vehicle from off-site sources.

6. **Screening and Fencing.** Cannabis plants shall not be easily visible from offsite. All cannabis cultivation activities shall occur within a secure fence at least six (6) feet in height that fully encloses the cultivation area(s) and prevents easy access to the cultivation areas (indoor and/or outdoor). The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress.

The required fencing and screening are subject to the following standards in addition to Section 22.10.080:

- a. Fencing shall be constructed of durable materials for security purposes. ~~This requirement may be waived or modified as specified below where the proposed landscape features such as terrain and vegetation provide the functional equivalent of fencing for security~~
- b. Fencing materials shall be solid, ~~such as wood, masonry or chain-link with security slats~~. All fencing and/or walls shall be made from material that blends into the surrounding terrain and shall minimize any visual impacts. Tarpaulins, scarp material, dust guard fencing, privacy netting, or woven or

~~non-woven polyethylene plastic, hedges, or bushes are not considered as fencing. or screening material including existing landscape features such as terrain and vegetation shall achieve a permanent opacity necessary to screen cannabis plants that are easily visible from off-site views.~~

- c. Solid fencing shall be located outside of setback areas (LUO 22.10.140).
- d. Where necessary, fencing shall be designed to allow for the movement of wildlife.
- e. Fencing and screening shall conform with the fencing and screening standards contained Articles 9 or 10, specific plans, community plans, or design plans.
- f. **Substitution for indoor cultivation.** Where the proposed structures are designed to provide the functional equivalent of fencing for security, and opacity for screening, fencing around indoor cultivation structures may be waived or modified as specified below.

This section may be waived or modified through Minor Use Permit or Conditional Use Permit approval, provided the review authority first finds that specifically identified characteristics of the site or site vicinity would make the required fencing or screening unnecessary or ineffective, and, if applicable, would enhance neighborhood compatibility and minimize impacts to viewsheds. Waiver or modification of fencing or screening requirements may result in, or be granted in conjunction with, additional or alternative security measures being required by the Sheriff's Office in accordance with Section 22.40.040.D.

- 7. **Renewable energy.** All sites engaging in artificial light or mixed-light indoor cannabis cultivation shall comply with State regulations regarding energy requirements.
- 8. **Nuisance Odors.** All cannabis cultivation shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected offsite. All structures utilized for indoor cannabis cultivation and ancillary processing, nursery, and distribution shall be equipped and/or maintained with sufficient ventilation controls, in concert with carbon filtration or other equivalent or superior method(s) of filtration, (e.g. carbon scrubbers) in a manner that results in the controlled exchange of air and to eliminates nuisance odor emissions from being detected outside of the structure offsite.
- 9. **Pesticides.** Pesticides and fertilizers shall be properly labeled, stored, and applied to avoid and prevent contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife. Pesticides and fertilizers must be approved for use on cannabis plants by the California Department of Food and Agriculture. Application of pesticides and fertilizers must comply with County, State, and Federal regulations.

**10. Outdoor Lighting.** Outdoor lighting shall be used for the purpose of illumination only and is subject to the provisions of Sections 22.10.060(B) through (F). Outdoor lighting shall not be located within the outdoor cannabis or nursery canopy area, used for photosynthesis, mixed-light processes, other purposes intended to manipulate cannabis plant growth, or in conjunction with cannabis hoop or shade cloth structures, whether attached or not to a cannabis hoop or shade cloth structure. Temporary lighting, whether powered by a portable generator or permitted electrical service, is prohibited. Any exterior lighting used for security purposes shall be motion activated, be located and designed to be motion activated, and shall be directed downward and to the interior of the site to avoid the light source from being visible off-site, and shall be the lowest-lumen necessary to address security issues. Where necessary, outdoor lighting shall be designed to minimize impacts to wildlife.

**11. Interior Lighting.** All facilities shall prevent interior lighting from being detected outside the facilities between the period of 1 hour before dusk and 1 hour after dawn. All Facilities employing artificial lighting techniques shall include shielding and/or blackout tarps that are engaged between the period of 1 hour before dusk and 1 hour after dawn and prevent any and all light from escaping.

**E. Required findings.** In addition to the mandatory findings required by Section 22.62.060.C.4, the Review Authority shall make the following additional findings in order to approve a land use permit under this subsection:

1. The cannabis cultivation, as proposed, will comply with all the requirements of State and County for the cultivation of cannabis, including dual licensure and participation in an authorized track-and-trace program;
2. The cannabis cultivation will not be located within one thousand ~~five-hundred~~ (1,~~05~~00) feet [or for applications accepted for processing before September 18, 2020, one thousand (1,000) feet] from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility;

OR

*(For location modifications only.)* Specific conditions of the site and/or vicinity make the required one thousand ~~five-hundred~~ (1,~~05~~00) foot [or for applications accepted for processing before September 18, 2020, one thousand (1,000) foot] location standard unnecessary or ineffective. The cannabis cultivation will not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility;

OR

*(For location modifications only.)* Specific conditions of the site and/or vicinity make the required six hundred (600) foot location standard from libraries, parks, playgrounds, recreation centers, licensed drug or alcohol recovery facilities, or licensed sober living facilities unnecessary or ineffective.

3. The cannabis cultivation includes adequate measures that minimize use of water for cannabis cultivation at the site;
4. The cannabis cultivation includes adequate quality control measures to ensure cannabis cultivated at the site meets State regulatory standards;
5. The cannabis cultivation includes adequate measures that address enforcement priorities for cannabis activities including restricting access to minors, and ensuring that cannabis and cannabis products are not supplied to unlicensed or unpermitted persons within the State and not distributed out of state.
6. *(For cultivation sites with verified cannabis-related violations within the last twenty-four (24) months.)* The proposed project or use will not contribute to repeat violation on the site. The subject site is in compliance with all laws, rules, and regulations pertaining to land uses, building and construction, health and safety, and any other applicable provisions of this Title, and such violation processing fees have been paid.
7. *(For setback modifications only.)* Specific conditions of the site and/or vicinity make the required setback unnecessary to achieve compatibility with the surrounding land uses or ineffective. Modification of the setback will not allow nuisance odor emissions from being detected offsite.
8. *(For proximity to other cannabis site location modifications only.) Specific conditions of the site and/or vicinity make the required location standard unnecessary to achieve compatibility with the surrounding land uses. Modification of the location standard will not allow nuisance odor emissions from being detected offsite.*
9. *(For sites with industrial hemp cultivation.) Specific conditions of the site and/or vicinity make the prohibition of industrial hemp cultivation unnecessary. Allowance of industrial hemp cultivation on the site will not allow nuisance odor emissions from being detected offsite.*
10. *(For fencing and screening modifications only.)* Specific conditions of the site and/or vicinity make the required fencing or screening unnecessary or ineffective, and, if applicable, would enhance neighborhood compatibility and minimize impacts to viewsheds.

#### **22.40.060 - Cannabis Nurseries**

- A. Limitation on use.** Cannabis nurseries shall be limited to the Agriculture (AG), Rural

Lands (RL), Residential Rural (RR), and Industrial (IND) land use categories. Cannabis nurseries in the Industrial and Residential Rural land use categories shall be limited to indoor propagation only.

**B. Ancillary Activity.** Cannabis nursery operations may include the following ancillary activity:

1. **Cannabis transport.** Immature plants and seeds grown on site may be transported to certain license types, as specified by State law. Cannabis nursery plants (immature and/or seeds) not grown on site shall not be transported under this provision. The transport operation shall be conducted from a non-residential structure.

**C. Land use permit required.**

1. **Minor Use Permit.** A Minor Use Permit is required for all cannabis nurseries, unless a Conditional Use Permit is required by another Section of this Title.
2. **Conditional Use Permit.** A Conditional Use Permit is required for cannabis nurseries 75,000 square-feet or greater in the Residential Rural land use category.

**D. Application requirements.** In addition to any specific requirements in this Section, land use permit applications shall comply with the requirements of Chapter 22.60 and Section 22.40.040.

1. A detailed water management plan including the proposed water supply proposed conservation measures, and any water offset requirements.
2. A four – hour pump test performed on all wells to be used for cannabis cultivation within the last 12 months of application date.
3. Information regarding stormwater control and wastewater discharge, including, but not limited to, total area of proposed impervious surfaces and identification of existing stormwater control features onsite.
4. A list of all pesticides, fertilizers, and any other hazardous materials used in the nursery process.
5. A storage and hazard response plan for all pesticides, fertilizers, and any other hazardous materials kept on the nursery's site.
6. For indoor and mixed-light nurseries, and/or ancillary processing activities, all power sources proposed to be used.

**E. Nursery standards.**

1. **Location.**

- a. For land use permit applications accepted for processing before September 18, 2020, and any subsequent renewals except as may be otherwise provided by future amendments of this Title, the following standards shall apply:
- i. Cannabis nurseries shall not be located within one thousand (1,000) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the nearest point of the property line of the site that contains the cannabis nursery to the nearest point of the property line of the enumerated use using a direct straight-line measurement. A new adjacent use does not affect the continuation of an existing use that was permitted and legally established under the standards of this Section. This location standard may be modified through Minor Use Permit approval to reduce the distance to six hundred (600) feet. This location standard may be modified to reduce the distance below 600 feet from any library, park, playground, recreation center, licensed drug or alcohol recovery facility, or licensed sober living facility through Conditional Use Permit approval, provided the Commission first makes the findings specified in Section 22.40.060(E)(2).
- b. For land use permit applications accepted for processing on or after September 18, 2020, and any subsequent renewals except as may be otherwise provided by future amendments of this Title, the following standards shall apply:
- i. Cannabis nurseries shall not be located within one thousand five-hundred (1,500) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the nearest point of the property line of the site that contains the cannabis nursery to the nearest point of the property line of the enumerated use using a direct straight-line measurement. A new adjacent use does not affect the continuation of an existing use that was permitted and legally established under the standards of this Section. This location standard may be modified through Minor Use Permit approval to reduce the distance to six hundred (600) feet. This location standard may be modified to reduce the distance below 600 feet from any library, park, playground, recreation center, licensed drug or alcohol recovery facility, or licensed sober living facility through Conditional Use Permit approval, provided the Commission first makes the findings specified in Section 22.40.060(E)(2).
- ii. No cannabis nursery shall be located within one thousand five hundred (1,500) feet of another cannabis cultivation site or cannabis nursery. Distances shall be measured from the closest property line of the existing cannabis cultivation site, to the closest property line of the property containing the proposed cannabis cultivation site. This location standard can be modified through Minor Use Permit approval when a Conditional Use Permit is not otherwise required.



- c. No industrial hemp cultivation may occur on a cannabis nursery site unless the review authority first finds that specifically identified characteristics of the site or site vicinity would make the prohibition of industrial hemp cultivation unnecessary and would not result in nuisance odors from being detected offsite. The existence of or potential for industrial hemp being cultivated on surrounding sites shall not be grounds for allowing industrial hemp cultivation on a cannabis cultivation site.
- 2. **Minimum site area.** No minimum site area is required in the Agriculture, Rural Lands, and Industrial land use categories. Cannabis nurseries in the Residential Rural land use category shall be located on sites that are a minimum of 5 acres in area.
- 3. **Setbacks.**
  - a. Indoor ~~C~~cannabis nurseries shall be setback as set forth in Section 22.30.310. Outdoor cannabis nurseries shall be setback a minimum of 300 feet from the property lines of the site or public right-of-way, whichever is closer.
  - b. All cannabis nurseries shall be setback 100 feet from any existing offsite residence, swimming pool, patio, or other living area of separate ownership. A new adjacent use does not affect the continuation of an existing use that was legally established under the standards of this Section.
  - c. All cannabis nurseries shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, ~~and~~ 100 feet from any wetland, and from all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation.
  - d. Setbacks may be modified through Minor Use Permit approval, except for setbacks required by the California Building Code, or for the resource setbacks identified in subsection c above.
- 4. **Air quality.** Nurseries located on an unpaved road shall provide, at a minimum, the following, in order to mitigate the air pollution (i.e. dust) effects created by the use.
  - a. A mitigation plan for continuing dust control from the property frontage to the nearest County-maintained road. The plan may be modified to adjust for changed conditions or to improve the effectiveness of the dust reducing technology. The plan and all modifications to the plan are subject to review and approval by the Review Authority.
  - b. Evidence of road maintenance provided by the County, State, special district, homeowners association or other organized maintenance, such as a road maintenance agreement.



- c. An agreement, to support and not protest: the formation of an assessment district or; the creation of another funding mechanism. The consenting person(s) retains all due process rights as to any term or condition that was unknown at the time of application approval. The consenting person(s) may contest the specific proportionality rate or other term or condition of the assessment or funding mechanism.

## 5. Water.

- a. Cannabis nursery sites that require a land use permit and are in a groundwater basin at Level of Severity III ~~pursuant to the last Biennial Resource Management System report~~ shall provide an estimate of water demand prepared by a licensed ~~professional engineer~~ Professional Geologist, Certified Engineering Geologist, or Certified Hydrogeologist or other expert on water demand, as approved by the Director of Planning and Building, and a detailed description of how the new water demand will be offset. All water demand within a groundwater basin at Level of Severity III shall offset at a minimum 1:1 ratio. All water demand within an identified Area of Severe Decline shall offset at a minimum 2:1 ratio, ~~unless a greater offset is required through land use permit approval~~. Offset clearance shall be obtained, prior to establishment of the use or receipt of Business License Clearance pursuant to 22.62.020, through an approved project specific or participation in a County approved water conservation program for the respective groundwater basin, prior to the establishment of the use or receipt of Business License Clearance pursuant to Section 22.62.020. that has been subject to environmental review, expressly provides water offsets for cannabis activities, and results in a verifiable reduction of water demand equal to, or exceeding, the required water demand offset for the life of the project. For clarification and not limitation, Planning Area Standards under Article 9 of land use ordinance which apply water offset requirements on development for non-agricultural purposes, including but not limited to Section 22.94.025, do not apply to or supersede the offset requirements under this subsection for cannabis cultivation, nursery or processing uses.
- b. Irrigation water supplies for cannabis nurseries shall not include water transported by vehicle from off-site sources.

## 6. Screening and Fencing. Cannabis plants shall not be easily visible from offsite. All outdoor cannabis nursery activities shall occur within a secure fence at least six (6) feet in height that fully encloses the nursery area(s) and prevents easy access to the cultivation areas (indoor and/or outdoor). The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress.

The required fencing and screening are subject to the following standards in addition to Section 22.10.080:

- a. Fencing shall be constructed out of durable materials for security purposes.
- b. Fencing materials shall be solid, such as wood, masonry or chain-link with security slats, all fencing and/or walls shall be made from material that blends into the surrounding terrain and shall minimize any visual impacts. Tarpaulins, scarp material, dust guard fencing, privacy netting, or woven or non-woven polyethylene plastic, hedges, or bushes are not considered as fencing. or screening material, including existing landscape features such as terrain and vegetation, shall achieve a permanent opacity necessary to screen cannabis plants that are easily visible from off-site views.
- c. Solid fencing shall be located outside of setback areas (LUO 22. 10.140).
- d. Where necessary, fencing shall be designed to allow for the movement of wildlife.
- e. Fencing and screening shall conform with the fencing and screening standards contained Articles 9 or 10, specific plans, or design plans.
- f. **Substitution for indoor cultivation.** Where the proposed structures are designed to provide the functional equivalent of fencing for security, and opacity for screening, fencing around indoor cultivation structures may be waived or modified as specified below.

This section may be waived or modified through Minor Use Permit or Conditional Use Permit approval, provided the review authority first finds that specifically identified characteristics of the site or site vicinity would make the required fencing or screening unnecessary or ineffective, and, if applicable, would enhance neighborhood compatibility and minimize impacts to viewsheds. Waiver or modification of fencing or screening requirements may result in, or be granted in conjunction with, additional or alternative security measures being required by the Sheriff's Office in accordance with Section 22.40.040.D.

7. **Renewable energy.** All sites engaging in artificial light or mixed-light indoor cannabis nursery cultivation shall comply with State regulations regarding energy requirements.
8. **Nuisance Odors.** All structures utilized for indoor cannabis nursery cultivation and ancillary transport where immature plants are held awaiting removal from the site shall be equipped and/or maintained with sufficient ventilation controls (e.g. carbon scrubbers) to , in concert with carbon filtration or other equivalent or superior method(s) of filtration, in a manner that results in the controlled exchange of air and eliminates nuisance odor emissions from being detected outside the structure offsite.
9. **Pesticides.** Pesticides and fertilizers shall be properly labeled, stored, and applied to avoid and prevent contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.

10. **Outdoor Lighting.** Outdoor lighting shall be used for the purpose of illumination only and is subject to the provisions of Sections 22.10.060(B) through (F). Outdoor lighting shall not be located within the canopy area, used for photosynthesis, mixed-light processes, other purposes intended to manipulate cannabis plant growth, or in conjunction with cannabis hoop or shade cloth structures, whether attached or not to a cannabis hoop or shade cloth structure. Temporary lighting, whether powered by a portable generator or permitted electrical service, is prohibited. Any exterior lighting used for security purposes shall be motion activated, be located and designed to be motion activated, and shall be directed downward and to the interior of the site to avoid the light source from being visible off-site, and shall be the lowest-lumen necessary to address security issues. Where necessary, outdoor lighting shall be designed to minimize impacts to wildlife.
11. Interior Lighting. All facilities shall prevent interior lighting from being detected outside the facilities between the period of 1 hour before dusk and 1 hour after dawn. All Facilities employing artificial lighting techniques shall include shielding and/or blackout tarps that are engaged between the period of 1 hour before dusk and 1 hour after dawn and prevent any and all light from escaping.

**F. Required findings.** In addition to the mandatory findings required by Section 22.62.060.C.4, the Review Authority shall make the following additional findings in order to approve a land use permit under this subsection:

1. The cannabis nursery, as proposed, will comply with all the requirements of State and County for the propagation of cannabis, including dual licensure and participation in an authorized track-and-trace program;
2. The cannabis nursery will not be located within one thousand five hundred (1,~~0~~500) [or for applications accepted for processing before September 18, 2020, one thousand (1,000) feet] from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility;

OR

*(For location modifications only.)* Specific conditions of the site and/or vicinity make the required one thousand five hundred (1,~~0~~500) foot [or for applications accepted for processing before September 18, 2020, one thousand (1,000) foot] location standard unnecessary or ineffective. The cannabis nursery will not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility;

OR

*(For location modifications only.)* Specific conditions of the site and/or vicinity make the required six hundred (600) foot location standard from libraries, parks, playgrounds, recreation centers, licensed drug or alcohol recovery facilities, or licensed sober living facilities unnecessary or ineffective.

3. The cannabis nursery includes adequate measures that minimize use of water for cannabis propagation at the site;
4. The cannabis nursery includes adequate quality control measures to ensure cannabis ~~cultivated~~ propagated at the site meets State regulatory standards;
5. The cannabis nursery includes adequate measures that address enforcement priorities for cannabis activities including restricting access to minors, and ensuring that cannabis and cannabis products are not supplied to unlicensed or unpermitted persons within the State and not distributed out of state.
6. *(For nursery sites with verified cannabis-related violations within the last twenty-four (24) months.)* The proposed project or use will not contribute to repeat violation on the site. The subject site is in compliance with all laws, rules, and regulations pertaining to land uses, building and construction, health and safety, and any other applicable provisions of this Title, and such violation processing fees have been paid.
7. *(For setback modifications only.)* Specific conditions of the site and/or vicinity make the required setback unnecessary or ineffective. Modification of the setback will not allow nuisance odor emissions from being detected offsite.
8. *(For proximity to other cannabis site location modifications only.) Specific conditions of the site and/or vicinity make the required location standard unnecessary to achieve compatibility with the surrounding land uses. Modification of the location standard will not allow nuisance odor emissions from being detected offsite.*
9. *(For sites with industrial hemp cultivation.) Specific conditions of the site and/or vicinity make the prohibition of industrial hemp cultivation unnecessary. Allowance of industrial hemp cultivation on the site will not allow nuisance odor emissions from being detected offsite.*
10. *(For fencing and screening modifications only.)* Specific conditions of the site and/or vicinity make the required fencing or screening unnecessary or ineffective, and, if applicable, would enhance neighborhood compatibility and minimize impacts to viewsheds.

#### **22.40.065 - Cannabis Processing Facilities**

- A. Limitation on use.** Cannabis processing facilities may be permitted in the Commercial Service (CS), Industrial (IND), Agriculture (AG), Rural Lands (RL) land use categories,

subject to a land use permit as required below. Cannabis processing in the AG or RL land use categories may be vertically integrated with cannabis cultivation only. This section does not apply to cannabis processing that is ancillary to an approved cannabis cultivation site (the processing of cannabis grown on site only), which is otherwise subject to Section 22.40.050.

**B. Land use permit required.** Cannabis processing facilities shall require Minor Use Permit approval unless a Conditional Use Permit is required by another Section of this Title.

**C. Application requirements.** In addition to any specific requirements in this Section, land use permit applications shall comply with the requirements of Chapter 22.60 and Section 22.40.040.

1. Storage and handling protocol plan.
2. A security plan that is consistent with Sheriff security guidelines that includes at a minimum lighting, security video cameras, alarm systems and secure area for cannabis storage. The security plan shall include a requirement that there be at least 390 (~~thirtyninety~~) business days of surveillance video (that captures both inside and outside images) stored on an ongoing basis. The video system for the security cameras must be located in a locked, tamper-proof compartment.
3. Employee safety and training equipment plan, plus Materials Safety Data Sheet requirements, if any.

**D. Processing facilities standards.**

1. **Location.**
  - a. Cannabis processing facilities shall not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the structure that contains the cannabis processing facility to the property line of the enumerated use using a direct straight-line measurement. This location standard may be modified to reduce the distance below 600 feet from any library, park, playground, recreation center, licensed drug or alcohol recovery facility, or licensed sober living facility through Conditional Use Permit approval, provided the Commission first makes the findings specified in Section 22.40.065(E)(4).
  - b. Cannabis processing facilities shall not be located in a Flood Hazard Zone, Sensitive Resource Area, or High Fire Hazard Severity Zone.
  - c. **Limit on agricultural land.** Cannabis processing facilities shall not be located on prime agricultural soils or on land under Williamson Act contract.

d. **Access in the AG or RL land use category.** Cannabis processing facilities shall be located on and take access from a publicly maintained, paved, and through (non-dead-end) road.

2. **Rural character design criteria.** Cannabis processing facilities located outside of an Urban or Village Reserve Line (URL or VRL), shall be sited and designed (including, but not limited to, structures, pavement, fencing, signs, and exterior lighting) to be compatible with the rural character of the site and surrounding area. Factors to be considered include:

- Avoiding the removal of native oak trees or other significant landscape
- Minimizing grading
- Minimizing negative effect on the night sky
- Agrarian Architectural style
- Offsite views of structures and screening.

3. **Setbacks.** Setbacks are required as set forth in Section 22.10.140, and structures and impervious surfaces shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, ~~and 100 feet from any wetland~~, and from all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation.

4. **Nuisance Odor.** All cannabis processing shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected offsite. All structures utilized for processing shall be equipped and/or maintained with sufficient ventilation controls, in concert with carbon filtration or other equivalent or superior method(s) of filtration, in a manner (e.g. carbon scrubbers) to that results in the controlled exchange of air and eliminates nuisance odor emissions from being detected outside the structure offsite.

E. **Required findings.** In addition to the mandatory findings required by Section 22.62.060.C.4, the Review Authority shall make the following additional findings in order to approve a land use permit under this subsection:

1. The cannabis processing facility, as proposed, will comply with all the requirements of State and County for the processing of cannabis, including dual licensure and participation in an authorized track and trace program;
2. The cannabis processing facility includes adequate quality control measures to ensure cannabis processed at the site meets State regulatory standards;
3. The cannabis processing facility includes adequate measures that address enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis is obtained from and supplied only to other permitted licensed sources within the State and not distributed out of State.

4. The cannabis processing facility will not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility;

OR

*(For location modifications only.)* Specific conditions of the site and/or vicinity make the required six hundred (600) foot location standard from libraries, parks, playgrounds, recreation centers, licensed drug or alcohol recovery facilities, or licensed sober living facilities unnecessary or ineffective.

5. *(For processing sites with verified cannabis-related violations within the last twenty-four (24) months.)* The proposed project or use will not contribute to repeat violation on the site. The subject site is in compliance with all laws, rules, and regulations pertaining to land uses, building and construction, health and safety, and any other applicable provisions of this Title, and such violation processing fees have been paid.

## **22.40.070 - Cannabis Manufacturing**

- A. **Limitation on use.** Non-volatile cannabis manufacturing facilities may be permitted in the Commercial Service (CS), Industrial (IND), and Agriculture (AG) land use categories subject to a land use permit, as required below. Cannabis manufacturing facilities involving volatile processes or substances (requiring a Type 7 volatile manufacturing State license) are prohibited. Cannabis manufacturing facilities in the Commercial Service land use category are limited to those sites within an Urban Reserve Line (URL) only. Cannabis manufacturing facilities in the Agriculture land use category are limited to the processing of the raw cannabis materials grown on site.

### **1. Limitations on type of manufacturing allowed on AG land.**

- a. Manufacturing of cannabis not grown on site is prohibited.
  - i. Extraction shall be limited to the processing of raw cannabis materials grown on site.
  - ~~ii. Infusion is prohibited.~~
  - ii. Infusion shall be limited to 10,000 square feet of the cannabis canopy cultivated on site.
- b. Chemical Products Manufacturing is prohibited, except for the infusion of cannabis into a cannabis product.
- c. Food and Beverage Products manufacturing of cannabis products is allowed and is not limited to raw materials (non-cannabis) grown on site.

### **2. Limit on the size of manufacturing facilities on AG land.** Cannabis



manufacturing facilities (including all product and storage areas) within the AG land use category shall be limited to a maximum gross floor area of 2,500 square feet.

**3. Ancillary Activity.** Cannabis manufacturing operations may include the following ancillary activity:

- a. **Cannabis transport.** Only cannabis products manufactured on site may be transported to certain license types, as specified by State law. The transport operation shall be conducted from a non-residential structure.

**B. Land use permit required.**

- 1. Minor Use Permit.** Non-volatile manufacturing facilities of less than 40,000 square feet shall require Minor Use Permit approval unless a Conditional Use Permit is required by another Section of this Title.
- 2. Conditional Use Permit.** Non-volatile manufacturing facilities of 40,000 square feet or more shall require Conditional Use Permit approval.

**C. Application requirements.** In addition to any specific requirements in this Section, land use permit applications shall comply with the requirements of Chapter 22.60 and Section 22.40.040.

- 1.** A complete description of all products used in the manufacturing process including the cannabis supply chain, liquids, solvents, agents, and processes.
- 2.** Storage protocol and hazard response plan.
- 3.** A security plan that is consistent with Sheriff's security guidelines and includes, at a minimum, lighting, security video cameras, alarm systems and secure area for cannabis storage. The security plan shall include a requirement that there be at least 390 (thirtyninety) business days of surveillance video (that captures both inside and outside images) stored on an ongoing basis. The video system for the security cameras must be located in a locked, tamper-proof compartment.
- 4.** Employee safety and training equipment plan, plus Materials Safety Data Sheet requirements, if any.

**D. Manufacturing standards.**

- 1. Location.** Cannabis manufacturing shall not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the structure that contains the cannabis manufacturing facility to the property line of the enumerated use using a direct straight-line measurement. This location standard may be modified to reduce the distance below 600 feet from any library, park, playground, recreation center, licensed drug or alcohol recovery facility, or licensed sober living facility through Conditional Use Permit approval, provided the



Commission first makes the findings specified in Section 22.40.070(E)(5).

- a. **Limit on AG land.** Cannabis manufacturing facilities shall not be located in a Flood Hazard Zone, or Sensitive Resource Area.
  - b. **Limit on AG land.** Cannabis manufacturing facilities shall not be located on prime agricultural soils or on land under Williamson Act contract (does not apply to extraction of raw cannabis materials grown on site).
2. **Rural character design criteria.** Cannabis manufacturing facilities located outside of an Urban or Village Reserve Line (URL or VRL), shall be sited and designed (including, but not limited to, structures, pavement, fencing, signs, and exterior lighting) to be compatible with the rural character of the site and surrounding area. Factors to be considered include:
  - Avoiding the removal of native oak trees or other significant landscape
  - Minimizing grading
  - Minimizing negative effect on the night sky
  - Agrarian Architectural style
  - Offsite views of structures and screening.
3. **Setbacks.** Setbacks are required as set forth in Section 22.10.140, and structures and impervious surfaces shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, ~~and~~ 100 feet from any wetland, and from all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation.
4. **Nuisance odors.** All cannabis manufacturing shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected offsite. All structures utilized for indoor cannabis manufacturing shall be equipped and/or maintained with sufficient ventilation controls, in concert with carbon filtration or other equivalent or superior method(s) of filtration, in a manner (e.g. carbon scrubbers) to that results in the controlled exchange of air and to eliminates nuisance odor emissions from being detected outside the structure offsite.
5. **Limitation on the manufacturing of cannabis edible products.** The manufacturing of cannabis edible products, as defined by this Title, that are in the shape of animals, people, insects, or fruit is prohibited.
6. The system used to manufacture shall comply with applicable Building Codes, Fire Codes, Engineering Codes and Cal-OSHA standards, California Building Code, California Electrical Code, California Mechanical Code, California Occupational Health and Safety Regulations, California Plumbing Code, California Energy Code, California Existing Building Code, California Green Building Standards Code, California Fire Code, California Health and Safety Code, National Fire Protection Association Standards, San Luis Obispo County Code and any fire and life safety

requirements established by the Board or their designee.

7. The applicant shall have a registered professional engineer or a Certified Industrial Hygienist provide a statement to certify that the proposed manufacturing facility complies with the referenced codes and standards.

**E. Required findings.** In addition to the mandatory findings required by Section 22.62.060.C.4, the Review Authority shall make the following additional findings in order to approve a land use permit under this subsection:

1. The cannabis manufacturing facility, as proposed, will comply with all the requirements of State and County for the manufacturing of cannabis, including dual licensure and participation in an authorized track-and-trace program;
2. The cannabis manufacturing facility does not pose a significant threat to the public or to neighboring uses from explosion or from release of harmful gases, liquids, or substances;
3. The cannabis manufacturing facility includes adequate quality control measures to ensure cannabis manufactured at the site meets industry standards and includes a documented employee safety training program, a Materials Data Safety Sheet (MSDS), and meets all requirements in the Health and Safety Code Section 11362.775, and as it may be amended;
4. The cannabis manufacturing facility includes adequate measures that address enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are obtained from and supplied only to other permitted licensed sources within the State and not distributed out of State.
5. The cannabis manufacturing facility will not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility;

OR

*(For location modifications only.)* Specific conditions of the site and/or vicinity make the required six hundred (600) foot location standard from libraries, parks, playgrounds, recreation centers, licensed drug or alcohol recovery facilities, or licensed sober living facilities unnecessary or ineffective.

6. *(For manufacturing sites with verified cannabis-related violations within the last twenty-four (24) months.)* The proposed project or use will not contribute to repeat violation on the site. The subject site is in compliance with all laws, rules, and regulations pertaining to land uses, building and construction, health and safety, and any other applicable provisions of this Title, and such violation processing fees have been paid.

7. *(For manufacturing on AG land)* The cannabis manufacturing facility, as proposed, shall be clearly incidental and related to the primary operation of the cannabis cultivation in use and size and will not significantly alter or change the character of the cultivation operation occurring on the site.

#### **22.40.080 - Cannabis Testing Facilities**

- A. **Limitation on use.** Cannabis testing facilities may be permitted in the Commercial Service (CS) and Industrial (IND) land use categories subject to a land use permit. Cannabis testing facilities in the Commercial Service land use category are limited to those sites within an Urban Reserve Line (URL) only.
- B. **Land use permit required.** Cannabis testing facilities of less than 20,000 square-feet shall require Minor Use Permit approval. Cannabis testing facilities of 20,000 square-feet or greater shall require Conditional Use Permit approval.
- C. **Application requirements.** In addition to any specific requirements in this Section, land use permit applications shall comply with the requirements of Chapter 22.60, Section 22.40.040, and include an operations plan detailing how cannabis will be received, secured, tested, and destroyed upon completion.
- D. **Cannabis testing facilities standards.**
1. **Location.** Cannabis testing facilities shall not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the structure that contains the testing facility to the property line of the enumerated use using a direct straight-line measurement. This location standard may be modified to reduce the distance below 600 feet from any library, park, playground, recreation center, licensed drug or alcohol recovery facility, or licensed sober living facility through Conditional Use Permit approval, provided the Commission first makes the findings specified in Section 22.40.080(E)(6).
  2. **Setbacks.** Setbacks are required as set forth in Section 22.10.140, and structures and impervious surfaces shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, ~~and~~ 100 feet from any wetland, and from all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation.
- E. **Required findings.** In addition to the mandatory findings required by Section 22.62.060.C.4, the Review Authority shall make the following additional findings in order to approve a land use permit under this subsection:

1. The cannabis testing facility, as proposed, will comply with all the requirements of State and County for the testing of cannabis, including dual licensure and participation in an authorized track and trace program;
2. The owners, permittees, operators, and employees of the cannabis testing facility will not be associated with any other form of commercial cannabis activity;
3. The cannabis testing facility is accredited by an appropriate accrediting agency as approved by the State and further described in Health and Safety Code Section 5238 and as it may be amended;
4. The cannabis testing facility operating plan demonstrates proper protocols and procedures for statistically valid sampling methods and accurate certification of cannabis and cannabis products for potency, purity, pesticide residual levels, mold, and other contaminants according to adopted industry standards.
5. The cannabis testing facility includes adequate measures that address enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are obtained from and supplied only to other permitted licensed sources within the State and not distributed out of State.
6. The cannabis testing facility will not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility;

OR

*(For location modifications only.)* Specific conditions of the site and/or vicinity make the required six hundred (600) foot location standard from libraries, parks, playgrounds, recreation centers, licensed drug or alcohol recovery facilities, or licensed sober living facilities unnecessary or ineffective;

7. *(For testing sites with verified cannabis-related violations within the last twenty-four (24) months.)* The proposed project or use will not contribute to repeat violation on the site. The subject site is in compliance with all laws, rules, and regulations pertaining to land uses, building and construction, health and safety, and any other applicable provisions of this Title, and such violation processing fees have been paid.

## **22.40.090 - Cannabis Dispensaries**

### **A. Limitation on use.**

1. Cannabis dispensary structures shall not be open to the public for retail sales. Only

dispensaries requiring a Non-Storefront Retailer State license are allowed. Dispensaries requiring a Type 10 Retailer State license are prohibited.

2. Cannabis dispensaries not operating within a permanent structure (mobile retailers) are prohibited.
3. Cannabis dispensaries (non-storefront retailers) may be permitted in the Agriculture (AG), Commercial Service (CS) within an Urban Reserve Line (URL) only, Industrial (IND), Residential Rural (RR), and Rural Lands (RL) land use categories subject to a land use permit.
4. Cannabis dispensaries in the RR and RL land use categories are limited to the dispensing of cannabis that is grown on site.
5. Cannabis dispensaries in the AG land use category are limited to the dispensing of cannabis that is grown on site, or cannabis products manufactured with cannabis grown on site.

**B. Land use permit required.** All cannabis dispensaries shall require Minor Use Permit approval unless a Conditional Use Permit is required by another Section of this Title.

**C. Application requirements.** In addition to any specific requirements in this Section, land use permit applications shall comply with the requirements of Chapter 22.60 and Section 22.40.040.

1. A security plan that is consistent with Sheriff's security guidelines and includes, at a minimum, lighting, security video cameras, alarm systems and secure area for cannabis storage. The security plan shall include a requirement that there be at least 390 (~~thirty~~ninety) business days of surveillance video (that captures both inside and outside images) stored on an ongoing basis, and the surveillance video shall have real-time access for the Sheriff's Office. The video system for the security cameras must be located in a locked, tamper-proof compartment.

**D. Dispensary standards.**

**1. Location.**

- a. Cannabis dispensaries with storefronts not open to the public (mobile deliveries) shall not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the structure that contains the dispensary to the property line of the enumerated use using a direct straight-line measurement. This location standard may be modified to reduce the distance below 600 feet from any library, park, playground, recreation center, licensed drug or alcohol recovery facility, or licensed sober living facility through Conditional Use

Permit approval, provided the Commission first makes the findings specified in Section 22.40.090(E)(2).

- b. A new adjacent use does not affect the continuation of an existing use that was permitted and legally established under the standards of this Section.

- 2. **Setbacks.** Setbacks are required as set forth in Section 22.10.140, and structures and impervious surfaces shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, ~~and~~ 100 feet from any wetland, and from all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation.
- 3. **Hours of operation.** Dispensaries may operate from 8:00 a.m. until 8:00 p.m. daily.
- 4. **Non-storefront retailers.** Deliveries from a legally established and permitted cannabis dispensary, within a permanent structure are allowed under this Section.
- 5. **Mobile retailers.** Mobile retailers are prohibited.

**E. Required findings.** In addition to the mandatory findings required by Section 22.62.060.C.4, the Review Authority shall make the following additional findings in order to approve a land use permit under this subsection:

- 1. The cannabis dispensary, as proposed, will comply with all the requirements of State and County for the dispensing of cannabis, including dual licensure and participation in an authorized track and trace program;
- 2. The cannabis dispensary will not be open to the public (non-storefront retailers only) and will not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility;

OR

*(For location modifications only.)* Specific conditions of the site and/or vicinity make the required six hundred (600) foot location standard from libraries, parks, playgrounds, recreation centers, licensed drug or alcohol recovery facilities, or licensed sober living facilities unnecessary or ineffective.

- 3. The cannabis dispensary includes adequate measures that address enforcement priorities for cannabis activities including restricting access to minors, and ensuring that cannabis and cannabis products are obtained from and supplied only to other permitted licensed sources within the State and not distributed out of State.
- 4. *(For dispensary sites with verified cannabis-related violations within the last twenty-four (24) months.)* The proposed project or use will not contribute to repeat

violation on the site. The subject site is in compliance with all laws, rules, and regulations pertaining to land uses, building and construction, health and safety, and any other applicable provisions of this Title, and such violation processing fees have been paid.

## **22.40.100 - Cannabis Distribution Facilities**

**A. Limitation on use.** Cannabis distribution facilities may be permitted in the Commercial Service (CS) and Industrial (IND) land use categories subject to a land use permit. Cannabis distribution facilities in the Commercial Service land use category are limited to those sites within an Urban Reserve Line (URL) only.

**B. Land use permit required.**

1. **Minor Use Permit.** Distribution facilities of less than 40,000 square feet shall require Minor Use Permit approval unless a Conditional Use Permit is required by another Section of this Title.
2. **Conditional Use Permit.** Distribution facilities of 40,000 square feet or more shall require Conditional Use Permit approval.

**C. Application requirements.** In addition to any specific requirements in this Section, land use permit applications shall comply with the requirements of Chapter 22.60 and Section 22.40.040.

1. An operations plan detailing how, and from where, cannabis and cannabis products will be received, how any storage and distribution operations will be secured to prevent theft and trespass, and to whom the product will be distributed.
2. Loading areas.
3. Storage and handling plans.

**D. Cannabis distribution facilities standards.**

1. **Location.** Cannabis distribution facilities shall not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the structure that contains the distribution facility to the property line of the enumerated use using a direct straight-line measurement. This location standard may be modified to reduce the distance below 600 feet from any library, park, playground, recreation center, licensed drug or alcohol recovery facility, or licensed sober living facility through Conditional Use Permit approval, provided the Commission first makes the findings specified in Section 22.40.100(E)(3).

2. **Setbacks.** Setbacks are required as set forth in Section 22.10.140, and structures and impervious surfaces shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, ~~and~~ 100 feet from any wetland, and from all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation.

**E. Required findings.** In addition to the mandatory findings required by Section 22.62.060.C.4, the Review Authority shall make the following additional findings in order to approve a land use permit under this subsection:

1. The cannabis distribution facility, as proposed, will comply with all the requirements of State and County for the distribution of cannabis, including dual licensure and participation in an authorized track and trace program;
2. The cannabis distribution facility operating plan demonstrates proper protocols and procedures that address enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are obtained from and supplied only to other permitted licensed sources within the State and not distributed out of State.
3. The cannabis distribution will not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility;

OR

*(For location modifications only.)* Specific conditions of the site and/or vicinity make the required six hundred (600) foot location standard from libraries, parks, playgrounds, recreation centers, licensed drug or alcohol recovery facilities, or licensed sober living facilities unnecessary or ineffective.

4. *(For distribution sites with verified cannabis-related violations within the last twenty-four (24) months.)* The proposed project or use will not contribute to repeat violation on the site. The subject site is in compliance with all laws, rules, and regulations pertaining to land uses, building and construction, health and safety, and any other applicable provisions of this Title, and such violation processing fees have been paid.

## **22.40.105 - Cannabis Transport Facilities**

- A. Limitation on use.** Cannabis transport-only facilities may be permitted in the Agriculture (AG), Rural Lands (RL), Residential Rural (RR), Residential Suburban (RS), Residential Single Family (RSF), Office and Professional (OP), Commercial Retail (CR), Commercial Service (CS) and Industrial (IND) land use categories subject to a land use permit. This



does not include transport to end users or for retail sale (cannabis dispensary) or transport of nursery products (cannabis nursery). This section does not apply to the transport of cannabis when ancillary to an approved cannabis cultivation, cannabis nursery, or cannabis manufacturing land use permit.

**B. Land use permit required.**

1. **Zoning Clearance.** Cannabis transport facilities shall require a zoning clearance and business licenses approval pursuant to Section 22.62.030, unless a Minor Use Permit is required per subsection 2, or a Conditional Use Permit is required by another Section of this Title.
2. **Minor Use Permit.** Minor Use Permit approval is required where site disturbance of one acre or greater is proposed, or where grading is proposed on slopes of 10 percent or greater.

**C. Application requirements.** In addition to any specific requirements in this Section, land use permit applications for cannabis transport facilities shall comply with the requirements of Chapter 22.60 and Section 22.40.040.

1. Statement of understanding of and compliance with State law as applicable to the safe handling and transport of cannabis and cannabis products, including track-and-trace system requirements.
2. A list of the licenses types for which transport will be provided.
3. **Waiver of content.** The Director may waive the application requirements of both Sections 22.60 and 22.40.040 provided the circumstances or conditions described in Section 22.60.040.E apply.

**D. Cannabis transport facilities standards.**

1. **Location.** Cannabis transport facilities shall not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, or youth center. Distance shall be measured from the structure that contains the transport facility to the property line of the enumerated use using a direct straight-line measurement.
2. **Setbacks.** Setbacks are required as set forth in Section 22.10.140, and structures and impervious surfaces shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, ~~and~~ 100 feet from any wetland ~~-, and from~~ all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation.
3. **Parking in commercial and industrial land use categories (OP, CR, CS and IND).** Off street parking shall be provided pursuant to Section 22.18.020 for

“Other Offices”. Commercial vehicles shall be stored in compliance with Section 22.30.040.B.

4. **Requirements in AG, RL, RR, RS, and RSF land use categories.** The following standards apply in the Agriculture (AG), Rural Lands (RL), Residential Rural (RR), Residential Suburban (RS), and Residential Single Family (RSF) land use categories:
  - a. **Principal Use.** Notwithstanding Section 22.40.040.Q, there shall be a principal residence on the site of the transport facility.
  - b. **Employees.** No other person other than members of the household residing on the premises may be working at the site.
  - c. **Parking and Traffic.** The cumulative traffic generated for the site, shall not exceed 10 trips per day, and shall only involve types of vehicles normally associated with a home in a residential neighborhood, except in compliance with Section 22.30.040.B.1. All parking needs shall be met off the street.
5. **Ownership and sale prohibited.** Transport facilities may not own or sell cannabis or cannabis products, or store cannabis or cannabis products at the premises of the business.

E. **Required findings for discretionary land use permits only.** In addition to the mandatory findings required by Section 22.62.060.C.4, the Review Authority shall make the following additional findings in order to approve a land use permit under this subsection:

1. The cannabis transport facility, as proposed, will comply with all the requirements of State and County for the processing of cannabis, including dual licensure and participation in an authorized track and trace program;
2. The cannabis transport facility includes adequate quality control measures to ensure cannabis processed at the site meets State regulatory standards;
3. The cannabis transport facility includes adequate measures that address enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis is obtained from and supplied only to other permitted licensed sources within the State and not distributed out of State.
4. The cannabis transport facility will not be located within six hundred (600) feet from any pre-school, elementary school, junior high school, high school, or youth center;
5. *(For transport facility sites with verified cannabis-related violations within the last twenty-four (24) months.)* The proposed project or use will not contribute to repeat violation on the site. The subject site is in compliance with all laws, rules, and regulations pertaining to land uses, building and construction, health and safety,

and any other applicable provisions of this Title, and such violation processing fees have been paid.

#### **22.40.110 - Grounds for Revocation**

Any of the following shall be grounds for revocation of the land use permit, based on substantial evidence and following notice and public hearing pursuant to Section 22.40.120:

- A.** Failure to comply with one or more of the conditions of the land use permit;
- B.** The land use permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant;
- C.** Any act or omission by an owner or permittee in contravention of the provisions of this Chapter;
- D.** Any act or omission by an owner or permittee that results in the denial or revocation of the owner's or permittee's State license;
- E.** Any act or omission that results in the revocation of that owner's or permittee's commercial cannabis Business License Clearance under Title 6 of the San Luis Obispo County Code;
- F.** Any act or omission by an owner or permittee in contravention of State law or the San Luis Obispo County Code on the site that received land use permit approval;
- G.** An owner's or permittee's failure to take appropriate action to evict or otherwise remove persons conducting commercial cannabis activities who do not maintain the necessary permits or licenses in good standing with the County or State;
- H.** Conviction for possession or delivery of any form of illegal drugs; or
- I.** Conduct of the commercial cannabis activities in a manner that constitutes a nuisance, where the owner or permittee has failed to comply with reasonable conditions to abate the nuisance (e.g. odor).
- J.** Without modifying or limiting the grounds for revocation set forth above, land use permit approval shall be deemed automatically revoked for five (5) years upon a finding that the site has had three (3) or more verified violations of County ordinance or other laws relating to cannabis within the last twenty-four (24) months.

#### **22.40.120 - Procedure for Revocation**

A Cannabis Enforcement Officer may initiate proceedings to revoke the approval of any land use permit issued in compliance with this Chapter in any case where a use of land has been

established or is conducted in a manner which violates or fails to observe the provisions of this Chapter or a condition of approval, as provided by this Chapter.

- A. Notice of pending revocation.** The Cannabis Enforcement Officer shall notify the permit holder of the intended revocation of the approval of a land use permit at least 10 calendar days before a revocation hearing, which will be held in accordance with Section 22.40.130. Service of notice shall be accordance with Section 22.74.020. If the Notice is served by mail the time period set forth above shall be extended by two (2) additional days. The notice shall contain the following.

  - 1. A heading reading, “Notice of Revocation Hearing”.
  - 2. The provisions and/or conditions violated and the means to correct the violation(s), if any.
  - 3. The date and place of the revocation hearing.
- B. Revocation hearing.** Before any action is taken to revoke an approved land use permit, a hearing shall be conducted in compliance with Section 22.40.130.
- C. Action to revoke.** If after the revocation hearing the Cannabis Hearing Officer finds that grounds for revocation have been established, the Cannabis Hearing Officer may:

  - 1. Allow the permit holder additional time to correct the violation or non-compliance; or;
  - 2. Modify conditions of approval on the basis of evidence presented at the hearing; or;
  - 3. Revoke the approved land use permit and order the discontinuance or removal of the approved use within a time specified by the Cannabis Hearing Officer following an enforcement hearing held pursuant to section 22.40.130.

The Cannabis Hearing Officer shall issue a written decision within five (5) calendar days after the close of the hearing. The decision of the Cannabis Hearing Officer shall be final and revocation shall become effective 7 days after the action of the Cannabis Hearing Officer. Upon the effective date of revocation, the Cannabis Enforcement Officer shall initiate nuisance abatement proceedings by preparing and serving a Notice of Nuisance in compliance with Section 22.40.130.

- D. Use after revocation.** When an approved land use permit has been revoked, no further development or use of the property authorized by the revoked entitlement shall be continued, except in compliance with approval of a new land use permit and any other authorizations or permits required by this Code.

## **22.40.130 - Enforcement**

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

- A. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for penalty pursuant to Chapter 22.74 of this Code, and any other action authorized by law:
1. Additionally, it shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Chapter shall be guilty of a misdemeanor. No proof of knowledge, intent, or other mental state is required to establish a violation.
  2. Any person violating any of the provisions of this Chapter shall be guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted.
  - ~~3. Each and every cannabis plant, including both immature and mature (flowering) plants, cultivated in violation of this Chapter shall constitute a separate violation subject to the penalties and fines of this Chapter, Chapter 1.05 and Chapter 22.74.~~
  3. Any person who violates any provision of this Chapter, including the owner of the property, shall be liable and responsible for, and shall pay to the County the following administrative fines in accordance with the notice and hearing procedures set forth under this Section 22.40.130 and Section 1.05.080:

<u>Violation</u>	<u>First Offense (amount per day)</u>	<u>Second Offense (amount per day)</u>	<u>Third Offense (amount per day)</u>
<u>Permitted and Licensed Operation - Exceedance of Allowed Cultivation (or Nursery) Area/Canopy</u>	<u>\$20 per square foot (after minimum five day correction period)</u>	<u>\$30 per square foot (no correction period required)</u>	<u>\$50 per square foot (no correction period required)</u>
<u>Permitted and Licensed Operation - Non-compliance with Standard or Condition of Approval</u>	<u>\$1,000 (after reasonable correction period, no less than five days)</u>	<u>\$2,500 (no correction period required)</u>	<u>\$10,000 (no correction period required)</u>
<u>Unpermitted or Unlicensed Cannabis Activity Other than Cultivation</u>	<u>\$10,000 (no correction period required)</u>	<u>\$25,000 (no correction period required)</u>	<u>\$50,000 (no correction period required)</u>

<u>Unpermitted or unlicensed Cannabis Cultivation</u>	<u>\$100 per plant (5 day correction period)</u>	<u>\$300 per plant (no correction period required)</u>	<u>\$500 per plant (no correction period required)</u>
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4. Paying a fine or serving a jail sentence shall not relieve any person from responsibility for correcting any condition which violates any provision of this Chapter.
5. No person owning, leasing, occupying, or having charge or possession of any property within the County shall cause or allow such property to be used for the cultivation of cannabis in violation of this Chapter. The property owner shall be responsible and liable for all violations of this Chapter and applicable laws on the property.

**B. Cannabis summary abatement.** Notwithstanding any other provision in this Chapter, when any unlawful cannabis cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in 22.40.130 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the County to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the applicants and property owners, but the formal notice and hearing procedures set forth in this Chapter shall not apply. The County may recover its costs for abating that nuisance in the manner set forth in Section 22.74.080 and Section 22.74.150.F.

**C. Notice of nuisance abatement.**

1. Upon the determination by the Cannabis Enforcement Officer that a nuisance exists, the Cannabis Enforcement Officer shall prepare a Notice of Nuisance Abatement, which may be combined with a notice of violation and a notice of the approximate amount of administrative fines, in accordance with this Section. The notices shall be served in accordance with Section 22.74.070.A. If the Notice is served by mail the time period set forth below shall be extended by two (2) additional days. The Notice of Nuisance Abatement shall contain:
  - a. A heading, "Notice of Nuisance Abatement".
  - b. A legal description and street address, assessor's parcel number, or other description sufficient to identify the premises affected.
  - c. A statement that unlawful cannabis activity exists on the site and that the Cannabis Enforcement Officer has determined it to be a public nuisance under this Chapter.
  - d. A description of unlawful cannabis activity and the actions required to abate it.
  - e. An order to complete abatement of the nuisance within 5 calendar days.
  - f. A statement that if the nuisance is not corrected as specified, a hearing will be held before the Cannabis Hearing Officer to consider whether to order

abatement of the nuisance and levy a special assessment, which may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes in compliance with Section 25845 of the Government Code. Special assessments are subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency as is provided for ordinary county taxes.

- g. A statement that the County intends to charge the property owner for all administrative costs associated with abatement of conditions defined as a nuisance by Section 22.74.150.A, in compliance with Section 22.74.080. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the county assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.
- h. A notice to appear before the Cannabis Hearing Officer at a stated time and place not less than 5 days after service of the notice, to show cause why stated conditions should not be found to be a nuisance, and why the nuisance should not be abated by the County.

**D. Enforcement hearings.** Hearings conducted for the purposes of permit revocation and nuisance abatement pursuant to this Chapter, shall be conducted as follows:

1. The Board of Supervisors hereby establishes the Office of County Cannabis Hearing Officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, to which Office the Board of Supervisors by resolution shall appoint one or more Cannabis Hearing Officers. Each Cannabis Hearing Officer shall be a duly licensed attorney at law that has been admitted to practice before the courts of this state for at least five years. A Cannabis Hearing Officer shall be appointed for a term of at least one year. If the Board appoints more than one Cannabis Hearing Officer, a Cannabis Hearing Officer shall be assigned by the Director of the Department of Planning and Building, or a designee, based on an alphabetical rotation and/or availability of the officer(s).

The Board of Supervisors shall approve by resolution policies and procedures relating to the contracting with and compensation of Cannabis Hearing Officers. The compensation and/or future appointment of a Cannabis Hearing Officer shall not be directly or indirectly conditioned upon the substance of his/her rulings, including but not limited to the amount of administrative fines levied. In the event of a vacancy, conflict of interest or other unavailability of an appointed Cannabis Hearing Officer, an administrative law judge provided by the State of California Office of Administrative Hearings to function as the County Hearing Officer pursuant to Chapter 14 of Part 3 of Division 2 of Title 3 of the California Government Code or an independent contractor assigned by an organization or entity which provides hearing officers may act as a Cannabis Hearing Officer for the purposes of this Chapter without further approval required by the Board of Supervisors.

Cannabis Hearing Officers shall have all those powers set forth in sections 27721 and 27722 of the Government Code, including, but not limited to, the power to conduct the hearing, to issue subpoenas, to receive evidence, to administer oaths, to rule on questions of law and the admissibility of evidence, to make findings of fact and conclusions of law, and

to prepare a record of the proceedings, as well as the powers to in his or her discretion continue a hearing one time for no more than five (5) days, upon a showing of good cause by a party of interest in advance of the date originally set for the hearing, and the power to uphold fines and abatement orders and order that the cost of the abatement be specially assessed against the parcel.

2. Pursuant to Government Code sections 25845, subdivision (i) and 27721, subdivision (a), the Cannabis Hearing Officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a nuisance under this Chapter, or whether there is any other good cause why those conditions should not be abated. This hearing shall be held no less than five (5) calendar days after service of the notice of violation.
3. The Cannabis Hearing Officer shall conduct the hearing as follows:
  - a. The Cannabis Hearing Officer will hear sworn testimony and consider other evidence concerning the conditions constituting cause to revoke approved permit(s) and/or abate a nuisance.
  - b. Respondents to enforcement actions may be present at the hearing, may be represented by counsel, may present testimony, evidence, and cross-examine witnesses.
  - c. If the respondent does not appear and present evidence at the hearing, the Cannabis Hearing Officer may base their decision solely upon the evidence submitted by the Cannabis Enforcing Officer. Failure of the respondent to appear and present evidence at the hearing shall constitute a failure to exhaust administrative remedies.
  - d. The hearing need not be conducted according to technical rules relating to evidence and witnesses, and may be continued from time to time.
  - e. The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or the County of San Luis Obispo.
  - f. The Cannabis Hearing Officer will deliberate upon the evidence presented, and shall, within two (2) calendar days after the close of the hearing, issue a written decision and order that either affirms, reverses, or modifies the determination contained in the Notice of Nuisance Abatement issued by the Cannabis Enforcement Officer, and may include findings relating to the existence or non-existence of the alleged nuisance, as well as findings concerning the propriety and means of abatement of the conditions set forth in the Notice of Nuisance Abatement and/or appropriateness of fines levied. The decision of the Cannabis Hearing Officer shall be mailed to, or personally served upon, the respondent and any other party upon whom the notice of violation was served, and the Cannabis Enforcement Officer. The decision



shall be final when signed by the Cannabis Hearing Officer and served as herein provided.

- g. Whenever the Cannabis Hearing Officer becomes aware that a respondent has failed to abate any unlawful cannabis activity within two (2) calendar days of the date of service of the decision of the Cannabis Hearing Officer under this Section requiring such abatement, the Cannabis Hearing Officer may direct a Cannabis Enforcement Officer to enter upon the property and abate the nuisance. The Cannabis Enforcement Officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary.
- h. The costs of abatement and all administrative costs incurred pursuant to this Chapter shall be recoverable in accordance with the Section 22.74.080 and Section 22.74.150.F.

**E. Liability for Abatement Costs and/or Administrative Fines; Interest**

- 1. No Person or entity owning, leasing, occupying or having charge or possession of any premises within the unincorporated area of the County shall cause, permit, maintain, conduct or otherwise suffer or allow a public nuisance to exist. It shall be the duty of every owner, occupant, and person that controls any land or interest therein within the unincorporated area of the County to remove, abate, and prevent the reoccurrence of the public nuisance upon such land. Such duty of an owner shall exist regardless of whether the owner is in actual possession of his or her real property, and may include an obligation to take action to evict or otherwise remove an occupier who creates a public nuisance upon the owner's property. Nothing in this Chapter shall be deemed to authorize or permit any activity that violates any provision of State or federal law.
- 2. In any enforcement action brought pursuant to this Chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the nuisance to exist shall be personally liable for:
  - a. All costs incurred by the County, including, but not limited to, abatement costs and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this Chapter, whether those costs are incurred prior to, during, or following enactment of this Section.
  - b. Any administrative fine imposed pursuant to this Chapter. In the event that an administrative fine is imposed on two or more persons for the same violation, all such persons shall be jointly and severally liable for the full amount of the administrative fine imposed. Payment of administrative fines does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the Notice of Violation and/or Notice of Nuisance Abatement. Payment of the

administrative fine does not bar the County from taking any other enforcement action regarding a violation that is not corrected.

3. Interest shall accrue on all amounts due under this Chapter, from the effective date of the decision to the date paid pursuant to the laws applicable to civil money judgments.
4. In addition to any other remedy, the amount of abatement costs, including administrative costs, incurred by the County to abate the nuisance, or the amount of any administrative fine imposed pursuant to this Chapter, may be made a lien against the real property on which the violation occurred in accordance with Section 22.40.130.F.
5. In addition to any other remedy, the County may prosecute a civil action through the Office of the County Counsel to collect any abatement costs and/or any administrative fine imposed pursuant to this Chapter.

**F. Lien Hearing.** When abatement costs and/or administrative fines due and owing have not been paid within thirty (30) days of service of notice of final determination in the manner set forth under Section 22.74.070.A.1, the Cannabis Enforcement Officer shall carry out the following as appropriate:

1. The enforcing officer shall prepare and serve a notice of account and hearing on nuisance abatement costs and/or administrative fines in accordance with Section 22.74.150.F.3 and G, itemized by property stating as applicable:
  - a. For each abatement carried out, the amount of all accrued abatement costs, including administrative costs, and/or
  - b. For each accrued administrative fines, the amount of delinquent administrative fines.
2. At the time and date set for the lien hearing, pursuant to Section 22.74.150.F, the Cannabis Hearing Officer will hear and consider the account and proposed assessment, together with objections and protests thereto, in accordance with Section 22.74.150.F.3 and G.
3. The Cannabis Hearing Officer will deliberate upon the evidence presented, and shall, within two (2) calendar days after the close of the lien hearing, issue a written decision and order that either affirms, reverses, or modifies the proposed account and assessment in accordance with Section 22.74.150.F.3 and G as the Cannabis Hearing Officer deems reasonable and necessary based on the preponderance of the evidence presented. The decision of the Cannabis Hearing Officer shall be mailed to, or personally served upon, the respondent and any other party upon whom the notice of account and hearing was served, and the Cannabis Enforcement Officer. The decision shall be final when signed by the Cannabis Hearing Officer and served as herein provided.
4. Upon confirmation of an abatement cost assessment by the Cannabis Hearing Officer, the assessment shall become a lien and special assessment against the subject property

in accordance with the procedures set forth for abatement costs under Sections 22.74.150.F.4, 5 and 6.

5. Upon confirmation of an administrative fine lien by the Cannabis Hearing Officer, after 30 calendar days following service of the Cannabis Hearing Officer's decision in accordance with this Section, and provided the amount confirmed remains unsatisfied, the Cannabis Enforcement Officer shall file same as a judgment lien in the San Luis Obispo County Clerk Recorder's Office. Once recorded, administrative fine liens shall have the same force and effect and priority of a judgment lien governed by the provisions of Code of Civil Procedure section 697.340, and may be extended as provided in Code of Civil Procedure sections 683.110 to 683.220, inclusive. Interest shall accrue on the principal amount of any lien remaining unsatisfied at the rate set forth in Civil Code section 685.010. Once the County receives full payment for outstanding principal, penalties, and costs, the Cannabis Enforcement Officer will record a notice of satisfaction. A fee shall be paid by the owner(s) and/or occupant(s) for processing the notice of satisfaction. This notice of satisfaction will cancel the County's lien for administrative fines. The lien may be foreclosed and the real property sold by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The County shall be entitled to its attorneys' fees and costs in the foreclosure action.

**G. Pesticide use enforcement.** Pursuant to the California Code of Regulations, Title 3. Food and Agriculture, Section 6140(a), the director or commissioner may, during business hours, or if necessary to ensure immediate compliance, at any other reasonable time enter and inspect, and/or sample any of the following or related items in order to determine compliance with the provisions of this Chapter and Divisions 6 and 7 of the Food and Agricultural Code, which pertain to pesticides and pest control operations:

1. Fields, areas, structures, and greenhouses where pesticides are handled, stored or applied;
2. Growing crops and harvested commodities;
3. Equipment (including protective clothing and equipment) used to store, transport or handle pesticides;
4. Change areas and other facilities used by employees; and
5. Pesticides and tank mixtures thereof.

In addition, California Code of Regulations, Title 3. Food and Agriculture, Section 6140(b) gives the commissioner the authority to inspect the pesticide related records of growers, pest control businesses, and other during business hours.

**H. Weights and measures.** Notwithstanding this ordinance, the County Agricultural Commissioner/Sealer shall have the duty of enforcing Division 5 of the California Business and Professions Code and carrying out its provisions and requirements as set forth in the California Code of Regulations, Title 4, Division 9. This shall include the inspection, testing, and

registration of weighing devices, the inspection of prepackaged product, and the inspection of product labeling relative to the commercial sale of cannabis.

1. Additionally, it shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Chapter shall be guilty of a misdemeanor. No proof of knowledge, intent, or other mental State is required to establish a violation.
2. Any person violating any of the provisions of this chapter shall be guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted.
3. Paying a fine or serving a jail sentence shall not relieve any person from responsibility for correcting any condition which violates any provision of this Title.

SECTION 2: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 3: Before the expiration of 15 days after the adoption of this ordinance by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

SECTION 4: This Ordinance shall become effective thirty (30) days after its enactment by the Board of Supervisors.

SECTION 5: These amendments are exempt from the California Environmental Quality Act (Public Resources Code §21000, et seq.) (“CEQA”) pursuant to Section 26055(h) of the California Business and Professions Code; to the extent any amendments are not automatically exempt from CEQA pursuant to Section 26055(h) of the California Business and Professions Code, those amendments would be exempt from CEQA because:

1. Per CEQA Guidelines §15061(b)(3) – The ordinance is not subject to CEQA due to the general rule that an action is not subject to CEQA where it can be seen with certainty that there is no possibility that there will be a significant effect on the environment.
2. Per CEQA Guidelines §15307 (Class 7) – The ordinance consists of regulations and restrictions on cannabis activities and promotes maintenance, restoration or enhancement of natural resources.

3. Per CEQA Guidelines §15308 (Class 8) – The ordinance consists of regulations and restrictions on cannabis activities to assure the maintenance, restoration, or enhancement of the environment; and

SECTION 6: In accordance with Government Code Section 25131, after reading the title of this Ordinance, further reading of the Ordinance in full is waived.

RECOMMENDED at a hearing of the San Luis Obispo County Planning Commission held on the 25<sup>th</sup> day of June, 2020, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 18<sup>th</sup> day of August, 2020, by the following roll call to vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

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Chairperson of the Board of Supervisors

ATTEST:

WADE HORTON

Ex-Officio Clerk of the Board of Supervisors  
San Luis Obispo County, State of California

By: \_\_\_\_\_  
Deputy Clerk

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED  
AS TO FORM AND CODIFICATION:

RITA L. NEAL  
County Counsel

By:   
Deputy County Counsel

Dated: August 7, 2020